

## REMARKS

In the official action mailed 24 Jan 2003, the Examiner reviewed claims 1-57. The Examiner objected to the drawings and the specification because of the number of informalities; objected to claims 1 and 22 because of stated informalities; rejected claims 11, 12, 15-20, 32, 33, 36-41 and 44-57 under 35 USC 112, second paragraph; rejected claims 1, 3-10, 22 and 24-31 under 35 USC 102 (e); rejected claims 1, 2, 4-10, 12-15, 17, 19, 21-31, 33-36, 38, 40, 42-44, 46-49, 51, 53 and 55-57 under 35 USC 102 (e); rejected claims 11, 32 and 45 under 35 USC 103 (a); and rejected claims 16, 18, 20, 37, 39, 41, 50, 52 and 54 under 35 USC 103 (a).

Applicant has amended the specification, drawings and claims as set forth above, and requests reconsideration. Claims 12, 15, 21, 33, 36, 42 and 48 have been canceled. Claims 1-11, 13-14, 16-20, 22-32, 34-35, 37-41, 43-37 and 49-57 remain in this application.

Each of the Examiner's rejections and objections is respectfully traversed below.

### Objections to the Specification and Drawings:

The Examiner objected to the specification and drawings because of a number of errors. Applicant has amended the specification and drawings to address the Examiner's concerns.

In the specification, paragraphs [0001], [0006], [0010], [0066] and [0092] have been amended as suggested by the Examiner. Paragraph [0009] has been amended to remove "embedded hyperlinks" as requested by the Examiner. All websites previously listed in this paragraph have been cited in a previously filed Disclosure Statement.

In amended Figures 7 and 9, the previously omitted reference signs have been added.

Accordingly, reconsideration of the objections to the specification and drawings is requested in view of the amendments.

### Objections to Claims 1 and 22:

The Examiner objected to claims 1 and 22 because of typographical errors. Applicant has amended such claims to address the Examiner's concerns.

Rejection of Claims 11, 12, 15-20, 32, 33, 36-41 and 44-57 Under 35 USC §112:

The Examiner rejected claims 11, 12, 15-20, 32, 33, 36-41 and 44-57 as indefinite under 35 USC 112, second paragraph. Applicant has amended or canceled the offending claims. Accordingly, reconsideration of the rejection of such claims is respectfully requested.

Rejection of Claims 1, 3-10, 22 and 24-31 under 35 USC 102 (e)

The Examiner rejected claims 1, 3-10, 22 and 24-31 under 35 USC 102 (e) over Menzel, et al. It is noted that Menzel is also an inventor on the present application. Without admitting that Menzel, et al. constitutes prior art, applicant has amended the claims to incorporate the subject matter of claims 12 and 15 into claim 1, and the subject matter of claims 33 and 36 into claim 22. Accordingly, reconsideration of the rejection over Menzel, et al. is respect for requested, in view of the amendments.

Rejection of Claims 1, 2, 4-10, 12-15, 17, 19, 21-31, 33-36, 38, 40, 42-44, 46-49, 51, 53 and 55-57 under 35 USC 102 (e)

The Examiner rejected claims 1, 2, 4-10, 12-15, 17, 19, 21-31, 33-36, 38, 40, 42-44, 46-49, 51, 53 and 55-57 under 35 USC 102 (e) over Naidoo. Without admitting that Naidoo constitutes prior art, and as mentioned above, applicant has amended claim 1 to incorporate the subject matter of claims 12 and 15, amended claim 22 to incorporate the subject matter of claims 33 and 36. Furthermore, applicant has amended claim 44 to incorporate the subject matter of claim 48.

With regard to claim 1, as amended, applicant submits that Naidoo does not teach the combination recited. In particular, Naidoo does not discuss any adaptive algorithm in particular for the hearing test she describes. The algorithm in recited in claim 1, as amended, comprises an N alternative-forced choice adaptive algorithm, where a next stimulus in the procedure is selected based on responses to more than one previous stimulus, as reflected by the limitation that at least one of the parameters X and Y is greater than one during a part of the procedure.

Independent claim 22 is also been amended to include similar subject matter.

Independent claim 44 is been amended to recite that the convergent process comprises a convergent, maximum likelihood process. Again, there's no discussion in Naidoo of any particular adaptive algorithm.

The balance of the claims rejected on this basis depend from one of claims 1, 22 and 44 and are believed allowable for at least the same reasons.

Accordingly, reconsideration of the rejection on this basis is respectfully requested.

Rejection of Claims 11, 32 and 45 Under 35 USC §103:

The Examiner rejected claims 11, 32 and 45 under 35 USC 103, as unpatentable over Naidoo. Applicant submits that claims 11, 32 and 45 are patentable for at least the same reasons as their respective base claims, as amended, and reconsideration is respectfully requested.

Rejection of Claims 16, 18, 20, 37, 39, 41, 50, 52 and 54 Under 35 USC §103:

The Examiner rejected claims 16, 18, 20, 37, 39, 41, 50, 52 and 54 under 35 USC 103, as unpatentable over Naidoo in view of Hou. Applicant submits that such claims are patentable for at least the same reasons as their respective base claims, as amended, and reconsideration is respectfully requested.

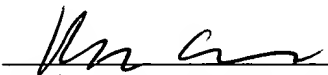
**CONCLUSION**

It is submitted that the present application is now in form for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (RXSD 1014-1).

Respectfully submitted,

Dated: 24 July 2003

  
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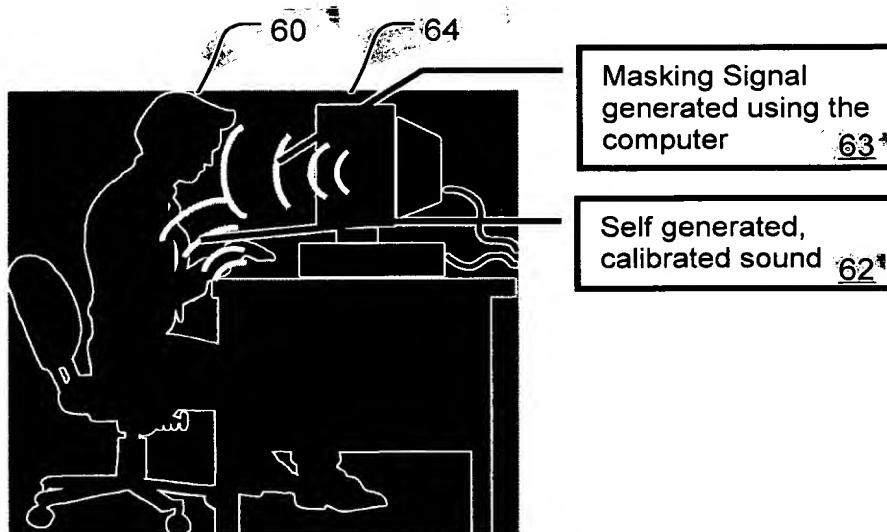


FIG. 7

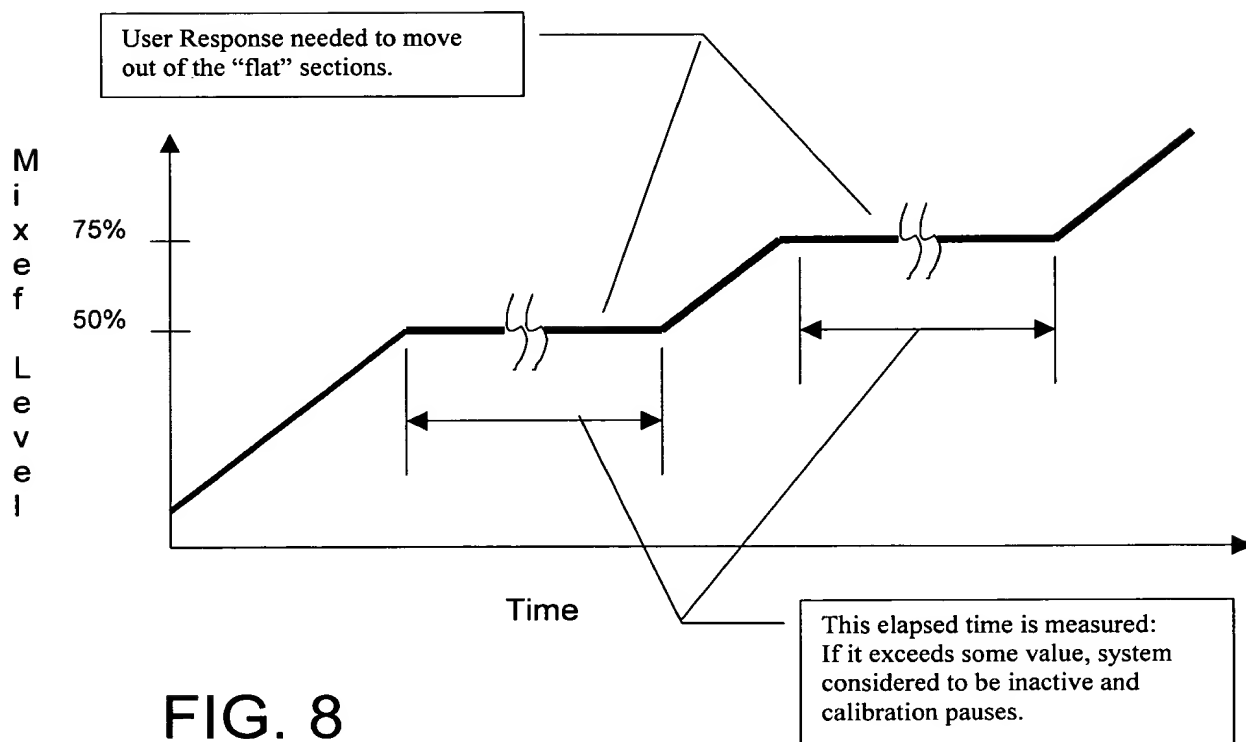


FIG. 8

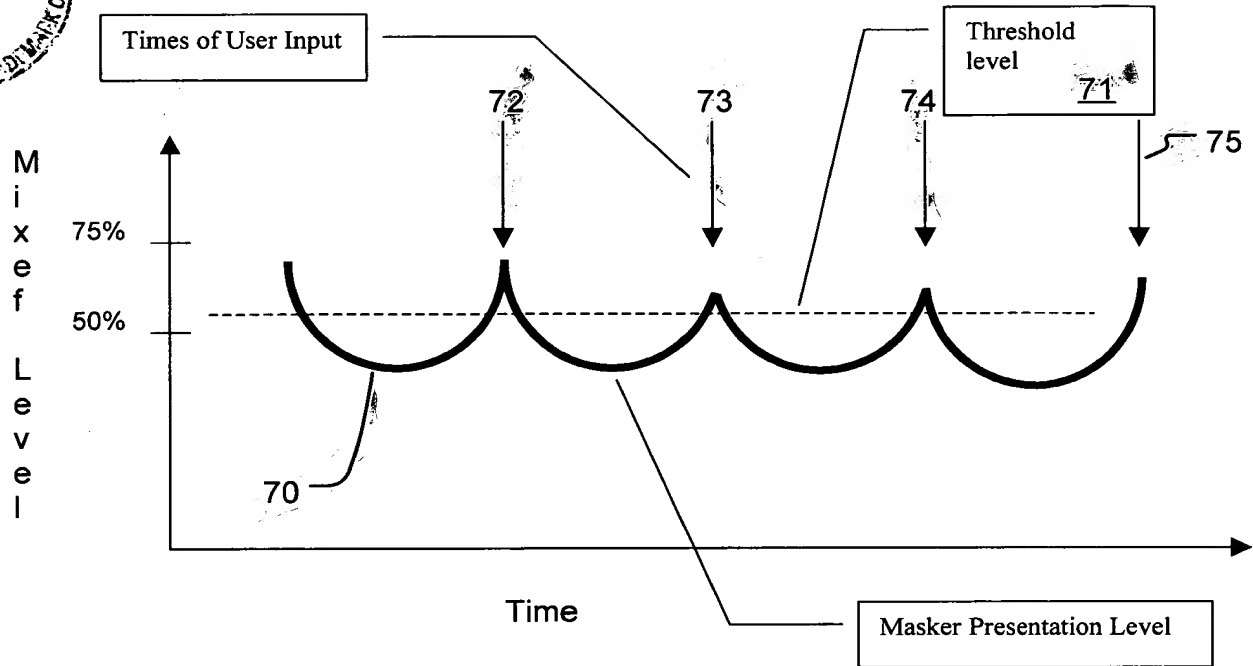


FIG. 9